

AMENDED IN ASSEMBLY JANUARY 17, 2008

AMENDED IN ASSEMBLY JANUARY 9, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1203

Introduced by Assembly Member Salas

February 23, 2007

An act to ~~add Section 1262.9 to~~ *amend Section 1371.4 of the Health and Safety Code, relating to health facilities care coverage.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1203, as amended, Salas. Health ~~facilities; care service plans;~~ poststabilization care.

~~Existing law establishes the State Department of Public Health, which licenses and regulates health facilities. Under existing law, a noncontracting hospital is required to contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting the enrollee for inpatient poststabilization care, as defined, or prior to transferring the enrollee, if certain conditions apply. Existing law prohibits the hospital from billing the enrollee for poststabilization care if it is required to, and fails to, contact the enrollee's health care service plan. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.~~

~~This bill would prohibit a noncontracting hospital, as defined, from billing a covered patient for emergency health care services and poststabilizing care except for applicable copayments and cost shares. By changing the definition of an existing crime, this bill would impose a state-mandated local program.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. The act authorizes a health care service plan to require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition. Existing law also requires a noncontracting hospital to contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting for, transferring for, or providing poststabilization care, under specified conditions, and prohibits a hospital that fails to meet this requirement from billing the patient for poststabilization care.

This bill would prohibit a noncontracting hospital that fails to contact a health care service plan to provide poststabilization care from billing the enrollee for poststabilization care. Because a willful violation of the bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1262.9 is added to the Health and Safety~~
- 2 ~~Code, to read:~~
- 3 ~~1262.9. (a) If a patient has coverage for emergency health care~~
- 4 ~~services and poststabilizing care, a noncontracting hospital shall~~
- 5 ~~not bill the patient for emergency health care services and~~
- 6 ~~poststabilizing care, except for applicable copayments and cost~~
- 7 ~~shares.~~
- 8 ~~(b) The noncontracting hospital and the health care service plan~~
- 9 ~~or health insurer shall each retain their right to pursue all currently~~
- 10 ~~available legal remedies they may have against each other,~~
- 11 ~~including the right to determine the final payment due.~~
- 12 ~~(c) For the purposes of this section, the following definitions~~
- 13 ~~apply:~~

1 ~~(1) “Noncontracting hospital” means a general acute care~~
2 ~~hospital as defined in subdivision (a) of Section 1250 that has a~~
3 ~~special permit to operate an emergency medical service and does~~
4 ~~not have a contract with a health care service plan or a health~~
5 ~~insurer for the provision of emergency health care services and~~
6 ~~poststabilizing care to the patient, who is an enrollee of that health~~
7 ~~care service plan or an insured of that health insurer.~~

8 ~~(2) “Emergency health care services and poststabilizing care”~~
9 ~~means emergency services and out-of-area urgent services provided~~
10 ~~in an emergency department and a hospital through discharge in~~
11 ~~compliance with Sections 1262.8 and 1317 and, in the case of~~
12 ~~health care service plans, the services required to be covered~~
13 ~~pursuant to paragraph (6) of subdivision (b) of Section 1345,~~
14 ~~subdivision (i) of Section 1367, and Sections 1371.4 and 1371.5~~
15 ~~of this code, and subdivision (g) of Section 1300.67 and Section~~
16 ~~1300.71.4 of Title 28 of the California Code of Regulations.~~

17 ~~SECTION 1. Section 1371.4 of the Health and Safety Code is~~
18 ~~amended to read:~~

19 ~~1371.4. (a) A health care service plan, or its contracting~~
20 ~~medical providers, shall provide 24-hour access for enrollees and~~
21 ~~providers to obtain timely authorization for medically necessary~~
22 ~~care, for circumstances where the enrollee has received emergency~~
23 ~~services and care is stabilized, but the treating provider believes~~
24 ~~that the enrollee may not be discharged safely. A physician and~~
25 ~~surgeon shall be available for consultation and for resolving~~
26 ~~disputed requests for authorizations. A health care service plan~~
27 ~~that does not require prior authorization as a prerequisite for~~
28 ~~payment for necessary medical care following stabilization of an~~
29 ~~emergency medical condition or active labor need not satisfy the~~
30 ~~requirements of this subdivision.~~

31 ~~(b) A health care service plan shall reimburse providers for~~
32 ~~emergency services and care provided to its enrollees, until the~~
33 ~~care results in stabilization of the enrollee, except as provided in~~
34 ~~subdivision (c). As long as federal or state law requires that~~
35 ~~emergency services and care be provided without first questioning~~
36 ~~the patient’s ability to pay, a health care service plan shall not~~
37 ~~require a provider to obtain authorization prior to the provision of~~
38 ~~emergency services and care necessary to stabilize the enrollee’s~~
39 ~~emergency medical condition.~~

(c) Payment for emergency services and care may be denied only if the health care service plan reasonably determines that the emergency services and care were never performed; provided that a health care service plan may deny reimbursement to a provider for a medical screening examination in cases when the plan enrollee did not require emergency services and care and the enrollee reasonably should have known that an emergency did not exist. A health care service plan may require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition. *If a noncontracting hospital fails to contact a health care service plan to provide poststabilization care, the hospital shall not bill the enrollee for poststabilization care.*

(d) If there is a disagreement between the health care service plan and the provider regarding the need for necessary medical care, following stabilization of the enrollee, the plan shall assume responsibility for the care of the patient either by having medical personnel contracting with the plan personally take over the care of the patient within a reasonable amount of time after the disagreement, or by having another general acute care hospital under contract with the plan agree to accept the transfer of the patient as provided in Section 1317.2, Section 1317.2a, or other pertinent statute. However, this requirement shall not apply to necessary medical care provided in hospitals outside the service area of the health care service plan. If the health care service plan fails to satisfy the requirements of this subdivision, further necessary care shall be deemed to have been authorized by the plan. Payment for this care may not be denied.

(e) A health care service plan may delegate the responsibilities enumerated in this section to the plan's contracting medical providers.

(f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with respect to a nonprofit health care service plan that has 3,500,000 enrollees and maintains a prior authorization system that includes the availability by telephone within 30 minutes of a practicing emergency department physician.

(g) The Department of Managed Health Care shall adopt by July 1, 1995, on an emergency basis, regulations governing instances when an enrollee requires medical care following stabilization of an emergency medical condition, including

1 appropriate timeframes for a health care service plan to respond
2 to requests for treatment authorization.

3 (h) The Department of Managed Health Care shall adopt, by
4 July 1, 1999, on an emergency basis, regulations governing
5 instances when an enrollee in the opinion of the treating provider
6 requires necessary medical care following stabilization of an
7 emergency medical condition, including appropriate timeframes
8 for a health care service plan to respond to a request for treatment
9 authorization from a treating provider who has a contract with a
10 plan.

11 (i) The definitions set forth in Section 1317.1 shall control the
12 construction of this section.

13 (j) (1) A health care service plan that meets the criteria set forth
14 in paragraphs (3) and (4) of subdivision (a) of Section 1262.8 and
15 that is contacted by a hospital pursuant to Section 1262.8 shall,
16 within 30 minutes of the time the hospital makes the initial
17 telephone call requesting information, do all of the following:

18 (A) Discuss the enrollee's medical record with the
19 noncontracting physician and surgeon or an appropriate
20 representative of the hospital.

21 (B) Transmit any appropriate portion of the enrollee's medical
22 record requested by the appropriate hospital representative or the
23 noncontracting physician and surgeon to the hospital by facsimile
24 transmission or electronic mail, whichever method is requested
25 by the appropriate hospital representative or the noncontracting
26 physician and surgeon. The health care service plan shall transmit
27 the record in a manner that complies with all legal requirements
28 to protect the enrollee's privacy.

29 (C) Either authorize poststabilization care or inform the hospital
30 that it will arrange for the prompt transfer of the enrollee to another
31 hospital.

32 (2) A health care service plan that meets the criteria set forth in
33 paragraphs (3) and (4) of subdivision (a) of Section 1262.8 and
34 that is contacted by a hospital pursuant to Section 1262.8 shall
35 reimburse the hospital for poststabilization care rendered to the
36 enrollee if any of the following occur:

37 (A) The health care service plan authorizes the hospital to
38 provide poststabilization care.

39 (B) The health care service plan does not respond to the
40 hospital's initial contact or does not make a decision regarding

1 whether to authorize poststabilization care or to promptly transfer
2 the enrollee within the timeframe set forth in paragraph (1).

3 (C) There is an unreasonable delay in the transfer of the enrollee,
4 and the noncontracting physician and surgeon determines that the
5 enrollee requires poststabilization care.

6 (3) Paragraphs (1) and (2) do not apply to a physician and
7 surgeon who provides medical services at the hospital.

8 (4) A health care service plan that meets the criteria set forth in
9 paragraphs (3) and (4) of subdivision (a) of Section 1262.8 shall
10 not require a hospital representative or a noncontracting physician
11 and surgeon to make more than one telephone call pursuant to
12 Section 1262.8 to the number provided in advance by the health
13 care service plan. The representative of the hospital that makes
14 the telephone call may be, but is not required to be, a physician
15 and surgeon.

16 (5) An enrollee who is billed by a hospital in violation of Section
17 1262.8 may report receipt of the bill to the health care service plan
18 and the department. The department shall forward that report to
19 the State Department of ~~Health Services~~ *Public Health*.

20 (6) For purposes of this section, “poststabilization care” means
21 medically necessary care following stabilization of an emergency
22 medical condition.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.